

RM 8577

OFFICE OF COMMISSIONER RACHELLE B. CHONG
Federal Communications Commission
1919 M Street, N.W., Room 844
Washington, D.C. 20554
Telephone: (202) 418-2200
Fax: (202) 418-2820

April 18, 1995

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

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The Honorable Albert Vera
Mayor
City of Culver City
4095 Overland Avenue
Culver City, California 90232-0507

Re: Cellular Telecommunications Industry Association's Petition to
Preempt State and Local Zoning Regulations

Dear Mayor Vera:

Thank you very much for your letter about the petition filed by the Cellular Telecommunications Industry Association (CTIA). This petition asks the Commission to begin a rule making proceeding to preempt state and local regulation of tower siting for commercial mobile radio service providers, such as cellular and personal communications service (PCS) companies. I am very interested in this issue, and welcomed the opportunity to hear your thoughts on it.

I certainly understand your concerns about the CTIA petition and its impact on the role of local jurisdictions in the cell siting process. Traditionally, cell siting issues are handled at the local level. By and large, this situation has been appropriate, given that zoning and land use issues involve uniquely local concerns, such as aesthetics and compliance with local building codes or other health and safety codes. I believe local authorities should continue to play a key role in these decisions.

However, as the demand for sites for wireless carriers continues to mushroom, I am also concerned about the ability of wireless providers to build out their networks without undue delay. There are many benefits to having national or regional wireless communications systems -- emergency communication abilities are enhanced, and people use wireless communications to become more efficient and productive. Further, new PCS licensees are paying the U.S. treasury billions of dollars for their licenses, which are regional and national in nature. I think it's fair for the federal government to ensure that these licensees are able to build their facilities throughout their service areas in a timely fashion. Moreover, some carriers complain that some localities may like to put a moratorium on all wireless cell sites in

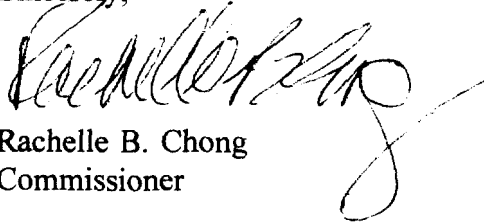
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certain geographic areas. For this reason, I believe the Commission also has an important role to play in this area to ensure ubiquitous and broad coverage without undue delay.

Having said that, I have not yet made any decisions about the CTIA petition. I believe that the Commission must balance the federal interest in ensuring the development of a competitive, efficient mobile services infrastructure against the legitimate interests of local governments in regulating zoning and land use matters. I am open to considering all options available to the Commission to strike the appropriate balance, and hope that you will work with us to find an acceptable solution for both our concerns.

I appreciate your taking the time to share your concerns with me. I will certainly keep them in mind as we consider the CTIA petition.

Sincerely,

A handwritten signature in black ink, appearing to read 'Rachelle B. Chong', with a long, sweeping flourish extending to the right.

Rachelle B. Chong
Commissioner



CITY OF CULVER CITY

4095 OVERLAND AVENUE
CULVER CITY, CALIFORNIA 90232-0507
CITY HALL Tel. (310) 202-5753
FAX (310) 839-5895

March 28, 1995

ALBERT VERA
MAYOR

STEVEN GOURLEY
VICE MAYOR

COUNCIL MEMBERS
DR. JAMES D. BOULGARIDES
MIKE BALKMAN
EDWARD M. WOLKOWITZ

Honorable Chair and Commission Members
Federal Communications Commission
1919 M Street, NW
Washington, DC 20036

CELLULAR TELECOMMUNICATIONS INDUSTRY ASSOCIATION'S PETITION
FOR RULE MAKING, RM-8577

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COMMISSIONER
RACHELLE B. CHONG
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Honorable Chair and Commission Members:

We want the Federal Communications Commission to know that the City of Culver City, California, strongly opposes any changes in Federal law or Federal Communications Commission regulations or rulings that would eliminate or curtail our ability to review proposed new cellular telecommunication facility installations in Culver City for compatibility with our land use regulations. We firmly believe that our concerns in this matter are representative of virtually all of the more than 500 local jurisdictions in the State of California. We certainly hope that each of those jurisdictions also expresses its own views to you.

When this matter was previously raised with the California Public Utilities Commission, we believe the Commission decided to retain local review requirements because its members realized the vital importance of local review and because they could find no evidence that it had worked unreasonably to deny or obstruct legitimate industry needs. In fact, Culver City might be a good example of a local jurisdiction that has acted reasonably to meet the needs of the cellular telecommunications industry while still protecting nearby sensitive land uses from blind intrusion.

During the last ten years, we have amended our zoning ordinance twice for these very purposes. First, to include these installations as permitted uses where they previously were not allowed, and subsequently to streamline the review process by allowing them in commercial and industrial zones under an administrative review process rather than the lengthier and more costly Planning Commission review process. Future amendments to our zoning ordinance to further address changing industry needs might well happen as we and the industry continue to evolve and adapt. We are confident that the two companies (Los Angeles Cellular and PacTel Cellular, now Air Touch) which together have proposed and had approved in Culver City approximately twelve installations during the last ten years would verify the reasonability of Culver City's approach.

Honorable Chair and Commission Members

Page 2

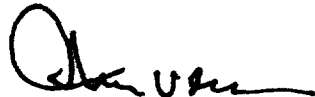
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Perhaps not all local jurisdictions have dealt as reasonably with the industry. If so, we strongly urge the Federal Communications Commission, and the California Public Utilities Commission, to use their administrative sanction authorities to convince those jurisdictions to act fairly and reasonably. But, please do not move to resolve possible isolated local jurisdictional problems in a sweeping way that penalizes all local jurisdictions by trampling on our vital local land use decision making interests.

Each of you resides in a city or county somewhere in this country, as does each cellular telecommunications industry person. Would any of you be content to rely solely on a remote Federal or State agency rather than your local city or county government to protect the homes, schools, parks and shops in your neighborhood from whatever happens next door? If not, you understand our position and you know what you should do in this matter.

Thank you for your earnest and sincere attention to our pleadings.

Sincerely,



Albert Vera
Mayor

AV:JBC:ee

Copy: Federal Communications Commissioners

Senator Steve Pace, Chairman, Senate Energy and Communications Committee

California Public Utilities Commission

Regulatory Policy and Law Office

City of Culver City Officials

All parties previously sent a copy of "Order Instituting Rule making on the Commission's own motion to develop revisions to General Orders and Rules applicable to siting and environmental review of cellular mobile radiotelephone utility facilities."